

## **REMARKS**

### **File History**

In the latest Office action of 09/19/2005, the following allowances, rejections, objections and other actions appear to have been made:

> Claims 1, 3-12, 14-52 and 56-58 were allowed.

> Claims 53-55 were rejected under 35 USC §102/103 as either being anticipated or obvious over newly-cited Zheng et al (US 5,728,621).

### **Summary of Current Response**

Claims 53-55 are cancelled without prejudice.

### **Comments re Applicant's Reason for Cancellation**

In order to expedite issuance of the allowed claims, Applicant hereby withdraws Claims 53-55. In so doing, Applicant is not acquiescing to the PTO's findings of fact re the Zheng '621 reference or to the PTO's position regarding a need to show criticality for being within about 600Å of reference top surfaces of adjacent silicon regions. Applicant respectfully disagrees with the PTO's apparent assertion that an ordinary artisan can tune in whatever number he finds "suitable" (OA page 3) when practicing an art such as CMP. However, since Claims 53-55 are being cancelled without prejudice, this issue becomes moot. Applicant reserves the right to separately present the subject matter of Claims 53-55 in a continuing application and to argue for their allowance therein.

## CONCLUSION

In light of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Should any other action be contemplated by the Examiner, it is respectfully requested that he contacts the undersigned at (408) 392-9250 to discuss the application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on \_\_October 20\_\_, 2005.

 10/19/05

Attorney for Applicant(s)

Date of Signature

Respectfully submitted,



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